

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

NATASHA FILGUEIRA,	§	
	§	
Plaintiff,	§	
	§	
VS.	§	CIVIL ACTION NO. H-05-3837
	§	
ALITALIA-LINEE AEREE	§	
ITALIANE S.P.A.,	§	
	§	
Defendant.	§	

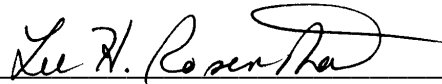
ORDER

Natasha Filgueira filed this suit in a Harris County, Texas Justice of the Peace Court against Alitalia, alleging that items from her carry-on luggage were missing after a flight from Italy to London. Alitalia removed the case to this court on November 14, 2005. (Docket Entry No. 1). Alitalia moved to dismiss under Rule 12(b)(6) of the Federal Rules of Civil Procedure. (Docket Entry No. 4). Alitalia argues that Filgueira's claims are governed by the Montreal Convention, which requires as an element of recovery that a passenger give an airline written notice for baggage complaints within seven days of receiving his or her baggage. (*Id.* at ¶ 2). Alitalia argues that Filgueira did not make a timely written complaint and cannot recover damages. (*Id.* at ¶¶ 5, 13–14).

Filgueira disputes Alitalia's allegation. She argues that she made a written complaint to the Metropolitan Police at the Heathrow Airport and had a copy of that complaint forwarded to Alitalia, and that she made a written claim directly to Alitalia. (Docket Entry No. 5 at ¶¶ 5–6). Filgueira attaches two letters to her response as evidence of her allegations.

Alitalia has replied, also attaching documents and an affidavit for the court to consider. Because the parties have attached materials outside the pleadings to her response, the motion is more appropriately treated as one for summary judgment. The parties may supplement the record no later than January 27, 2006.

SIGNED on January 13, 2006, at Houston, Texas.

A handwritten signature in black ink, reading "Lee H. Rosenthal", is positioned above a horizontal line. The signature is fluid and cursive.

Lee H. Rosenthal
United States District Judge